

RESPONSE TO REVIEWER COMMENTS

1. Commitment 99-CMS-006, “ECP training will be mandatory for all BNFL Inc., TWRS-Privatization Project positions,” was adequately incorporated in the proposed revision of the BNFL-5193-ECP-01. Section 2, “Policy,” states that “all employees will receive orientation on the ECP.” Section 5.2, “TWRS-Privatization Organization Managers,” states that, “Managers are also responsible for ensuring that each employee under their direction receives ECP training.” Upon RU approval this is sufficient to close Commitment 99-CMS-006.

The proposed ECP revision Section 2 states that “This policy information is provided to employees in mandatory ECP orientation training.” Section 5.2 states that “Managers are also responsible for ensuring that each employee under their direction receives ECP training that has been established by the RPP-WTP Project training group.”

2. Commitment 99-CMS-007, “Qualification standards for the ECP officer, coordinator, and staff will be incorporated in BNFL Inc. TWRS-Privatization project documents,” was adequately incorporated in the requested revision of BNFL-5193-ECP-01. Section 5.1 “ECP Staff,” states that, “The ECP Officer and Coordinator(s) will be nominated by senior management and will be chosen in accordance with the qualification standards described in K21C001 (Ref. 5).” Upon RU approval this is sufficient to close Commitment 99-CMS-007 provided that the ECP Officer and Coordinator(s) comprise the entire ECP staff.

The proposed ECP revision 2 Section 5.1 now states that “The ECP Officer and Coordinator(s) will be nominated by senior management and will be chosen in accordance with the qualification standards prescribed by management in program implementing documents.” BNFL removed the reference to the specific implementing document in the proposed revision. The qualification standards will remain in management approved documents, but the specific document may change. To simplify the maintenance of authorization basis documents, BNFL has elected to minimize references to, and therefore incorporation of, specific project implementing documents in the Authorization Basis.

The ECP Officer is responsible for taking the necessary actions to ensure the success of the ECP. The ECP Coordinator(s) assists the ECP Officer in this role. At different times during the project, the ECP Officer and Coordinator may require the assistance of additional staff to meet their assigned responsibilities. The ECP Officer, based on the specific needs at the time, on a case by case basis, will select these staff members. Therefore, the ECP Officer and Coordinator will not comprise the entire staff.

3. Commitment 99-CMS-010, “Senior BNFL project management will encourage and endorse the ECP during ECP training,” was not adequately incorporated in the requested revision of BNFL-5193-ECP-01. Although Section 5.1, “ECP Staff” states that one of the actions for which the ECP Officer is responsible is “developing effective program training that provides senior management endorsement of the ECP,” this is not sufficient to close Commitment 99-CMS-010. Commitment 99-CMS-99-010 will remain open until appropriate language incorporating this commitment is added to BNFL-5193-ECP-01.

The proposed revision of the ECP now states in Section 2.0, "Policy," that "During ECP training RPP-WTP Project senior management endorses and encourages participation in the ECP." In addition, the ECP training module discusses management commitment to an effective ECP.

4. The "Authorization Basis Amendment Request," the "Safety Evaluation Worksheet," and the mark-up of Appendix D to BNFL-5193-ECP-01, Rev. 0 all refer to Code of Practice K15C010, which is apparently the detailed implementing procedure for conducting employee concern investigations. However, K15C010 is not referenced anywhere in the requested revision of BNFL-5193-ECP-01. It would seem that this Code of Practice should be referred to under Section 1, "Introduction," Section 4.3, "Investigation and Corrective Action," and included under Section 6, "References." BNFL should explain or correct this apparent discrepancy.

To correct the discrepancy, BNFL has removed reference to specific implementing documents in the proposed revision of BNFL-5193-ECP-01. As is typical in other BNFL authorization basis documents, the ECP does not include the number and title of project implementing documents. In addition, to avoid further confusion, BNFL has removed reference to the number and title from the ABAR and the Safety Evaluation. This change was made to avoid the incorporation of codes of practice, by reference, into the Authorization Basis.

5. In Section A of the amendment request, BNFL indicates the proposed change is "a complete revision." The BNFL ABAR document does not identify specific changes or provide a specific evaluation of each change made to the ECP in Section E of the request. For example, BNFL proposes eliminating its commitment to quarterly reporting. The request does not identify this specific change nor does it provide an evaluation of the significance of this change. In a document labeled "Appendix 1: Authorization Basis Change Notice," BNFL does identify the relocation of the reporting requirement and that the frequency was changed, but fails to provide an evaluation or relevant reason for the change.

In following the guidance in RL/REG-97-13, Rev 5, BNFL is not required to provide to the RU for approval, an evaluation of each change being proposed in an authorization basis document. If the changes meet the criteria in paragraph 3.5 that allow changes without prior RU approval, BNFL may make changes if the documentation requirements in paragraph 3.5.b are met. In response to the specific example stated, BNFL agrees that more explanation is warranted and has revised the ABAR to remove this change request. As noted, only the change related to the relocation of implementing instructions to project controlled documents has been identified as a reduction in commitment and as such requires RU approval. A justification for the acceptability of the proposed relocation of details has been provided as an attachment to the revised ABAR.

Section B of the ABAR is a generalization of the “reason” for the change, i.e.; to relocate detailed implementing procedural instruction to Codes of Practice. However, it appears that BNFL also changed authorization basis information and commitments. For example, Section 1 of the proposed revision to the ECP cites DOE O 442.1, Department of Energy Employee Concerns Program, as its basis whereas Revision 0 cited RLID 5480.29, RL Employee Concern Program. The reasons for, and effects of, these changes were not explained. One effect would seem to be that if DOE O 442.1 is to be the basis of Revision 1 of the ECP, the contractor requirements document provisions in Attachment 1 to the DOE O 442.1 should be reflected in Revision 1.

In the proposed Revision 1, BNFL did change authorization basis information. These changes in information were not considered to meet the requirement of prior RU approval and the Safety Evaluation Worksheet was reviewed and approved by project staff members. On reviewing the RU comments on the ABAR, BNFL has revised the ECP and the ABAR, to remove the change in reporting requirement. The ECP and the amendment request have also been revised to remove the change from RLID 5480.29 to DOE O 442.1.

6. Section C of the ABAR did not provide the RU with an understanding of how implementation of the proposed changes could affect BNFL scheduled activities. As such, the RU cannot identify the basis for BNFL Inc.’s determination of the proposed approval schedule.

BNFL initially implemented an ECP during Part A. As the project moved to Part B, several changes were implemented on the project. BNFL Inc. did not believe that the changes implemented that impacted the administration of the ECP required RU approval prior to implementation. Implementing instructions were placed in codes of practice, but they are still in the ECP. The proposed revision no longer contains the procedural details currently found in Revision 0. Therefore, all of the proposed changes except the actual removal of the details from the authorization basis document have been implemented. Within 30 days following the RU approval of the proposed ECP revision, the remaining change will be implemented.

7. One of the change drivers for this revision is commitments made by BNFL in response to an RU inspection. It would seem that the ABAR would include complete documentation of the changes made due to these commitments showing how they were reflected in the document.

In Reference 4, BNFL described actions that would be taken in response to the issues identified by the RU in the inspection report. As discussed in the response to comment 3, the actions described in the response to the inspection report were not characterized by BNFL as commitments. Failure to relate specific changes in the ECP to commitments contained in the RU database should not be regarded as a failure to provide complete documentation of the changes. However, to facilitate the review of this ABAR and closure of inspection findings, Attachment 2 to this letter shows the relationship between the response to the inspection report, the RU response to BNFL, and the changes made to the ECP.

8. The proposed revision to the ECP cites 10 CFR 708 as a reference in Section 6, “Reference,” but it did not contain any other connection or commitment to 10 CFR 708. Compliance with 10 CFR 708 would seem to be a significant element of the proposed revised program given the applicability of Part 708 to BNFL Inc. activities (64 Federal Register 12863, March 15, 1999). For example, if discrimination occurs and a nuclear/radiological safety-significant issue is involved, the event is potentially reportable as a noncompliance with 10 CFR 708 and the procedures of 10 CFR 820 would apply. The ECP does not describe or reference responsibilities or interfaces with regard to complying with 10 CFR 708.

The BNFL ECP, Section 6, Revision 0, also included a reference to 10 CFR 708. The proposed revision adds discussion in Section 2.0 “Policy” that 10 CFR 708 prohibits discriminatory actions against employee raising concerns. BNFL Inc. believes this clarifies the applicability of 10 CFR 708 to the project, but was not intended to increase the purpose or scope of the program. As discussed in the ECP and RL/REG-96-03, an effective ECP should help avoid potential violations of Federal law. It was not the purpose of the ECP to address violations of 10 CFR 708 or any other Federal code or statute. However, were there violation of 10 CFR 708 or 29 CFR 24, the remedies prescribed within those regulations would apply.

Attachment 3

ATTACHMENT 3*Status of corrective actions*

BNFL RESPONSE	BNFL ACTION TAKEN	RU CMS	STATUS	COMMENT	APPLICABLE ECP REVISION
ECP training has been added as a mandatory training requirement for all project positions	1.ECP is now a “core training” requirement in the Training and Development Plan 2. ECP states that employees receive orientation to the ECP.	99-CMS-006 Revise ECP to show mandatory training requirement	Complete	Training plan revision has been implemented	2.0 Policy, paragraph “This policy information is provided to employees in mandatory ECP orientation training.”
Training sessions are scheduled for the week of February 8, 1999. Employees who do not attend will be identified and provided the necessary information. The lesson plan addresses the following topics: Corporate policy Protection against reprisal Assurance of confidentiality	Training was held	99-CMS-005	Complete		None

BNFL RESPONSE	BNFL ACTION TAKEN	RU CMS	STATUS	COMMENT	APPLICABLE ECP REVISION
ECP information has been added to the Project Orientation package.	Material was added	99-CMS-004	Complete		None
Develop qualification standards for ECP officer, coordinator, and staff.	Qualifications were developed.	NA	Complete		None
Identify and revise the appropriate project documents to include the qualification standards	Qualification standards were placed in program implementing document	99-CMS-007 Incorporate standards into the ECP	Complete	The implementing document was issued (a Code of Practice). The ECP sends the reader to the program implementing documents. The authorization basis document does not include the standards	ECP Section 5.1, "ECP Staff", 1 st paragraph "The ECP Officer and Coordinator(s) will be nominated by senior management and will be chosen in accordance with the qualification standards prescribed by management in program implementing documents."

BNFL RESPONSE	BNFL ACTION TAKEN	RU CMS	STATUS	COMMENT	APPLICABLE ECP REVISION
<p>Incorporate the following into the appropriate project documents.</p> <p>Roles, duties, and responsibilities for ensuring and maintaining independence from the initiating employee's line organization.</p> <p>Guidance for identifying and taking immediate actions for imminent hazards.</p> <p>Guidance for resolving employee concerns in a fair and impartial manner.</p> <p>Guidance for assuring and maintaining confidentiality.</p> <p>Guidance for involving people with the appropriate expertise and authority</p>	Added to implementing document	99-CMS-008	Completed		none

BNFL RESPONSE	BNFL ACTION TAKEN	RU CMS	STATUS	COMMENT	APPLICABLE ECP REVISION
Incorporate the following into the appropriate project documents: Roles, duties, and responsibilities for tracking and trending employee concerns. Guidance on conducting exit debriefing interviews. Guidance for subcontractor ECP oversight. Guidance for protecting employees from reprisal and redressing reprisal should it occur.	Added to implementing documents	99-CMS-009	Completed		none

BNFL RESPONSE	BNFL ACTION TAKEN	RU CMS	STATUS	COMMENT	APPLICABLE ECP REVISION
Senior project management will introduce the ECP training. This introduction will address their endorsement and the encouragement to use the ECP if it is needed. The training content is discussed in the response to the first conclusion.	Project management introduced the ECP training conducted the week of February 8 th	99-CMS-010 Revise the ECP to say that senior managers will encourage and endorse ECP during ECP training	Completed	Management introduced the training in February. In addition, to address the RU concern, the management endorsement and encouragement concerning the ECP was emphasized in the ECP, Rev 1A.	ECP Section 2.0 Policy “During ECP training RPP-WTP Project senior management endorses and encourages participation in the ECP.”
The ECP officer and coordinator spent several hours in the last few weeks discussing the existence, the importance, and the mechanics involved with the ECP. They met with many project employees, face to face, to deliver the ECP brochures when they were available. Both the officer and the coordinator hold senior management positions for BNFL.	Officer and Coordinator met with employees	NA	Completed		None